



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

John R. Peery

**Serial No.:** 09/296,582

**Filed:** April 23, 1999

**For:** TROCAR FOR INSERTING  
IMPLANTS

**Confirmation No.:** 8609

**Examiner:** L. Thanh

**Group Art Unit:** 3763

**Attorney Docket No.:** 3139-6163US  
(ARC 2280 US R1)

**Notice of Allowance Mailed:**

January 24, 2006

**NOTICE OF EXPRESS MAILING**

Express Mail Mailing Label Number: EL995987161US

Date of Deposit with USPS: April 20, 2006

Person making Deposit: Timothy Palfreyman

**TRANSMITTAL LETTER**

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant submits herewith Part B - Fee(s) Transmittal for the above-captioned application and a Request to Apply Previously Paid Issue Fee to Issue Fee Required by New Notice of Allowance.

Also enclosed are Comments on Statement of Reasons for Allowance (2 pages) and Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages).

Serial No.: 09/296,582

Applicant understands that no additional fees are required. However, if the Office determines that any comparison fees or other additional fees are required, the Commissioner is authorized to charge any such fees to TraskBritt Deposit Account No. 20-1469. A copy of this Transmittal Letter is enclosed for deposit account charging purposes.

Respectfully submitted,



Edgar R. Cataxinos  
Registration No. 39,931  
Attorney for Applicant  
TRASKBRITT  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: April 20, 2006

ERC/dn:es

Enclosures: Part B - Issue Fee Transmittal (1 page)  
Copy of Transmittal Letter (2 pages)  
Request to Apply Previously Paid Issue Fee to Issue Fee Required by New Notice  
of Allowance (2 pages), with attached copy of Decision on Petition (1 page)  
Comments on Statement of Reasons for Allowance (2 pages)  
Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages)

Document in ProLaw



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**REQUEST TO APPLY PREVIOUSLY PAID ISSUE FEE TO ISSUE FEE REQUIRED  
BY NEW NOTICE OF ALLOWANCE**

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to the Decision on Petition mailed December 23, 2005 (a copy of which is attached hereto), Applicant respectfully requests that the issue fee and extra copies fee paid April 2, 2004 in the total amount of \$1,330.00 be applied to the fees due under the new Notice of Allowance mailed January 24, 2006. Applicant understands that the issue fee amount has since

**Serial No. 09/296,582**

increased, and therefore encloses a check in the amount of \$70.00 to cover the difference between the issue fee previously paid and the issue fee due under the new Notice of Allowance.

This Request is submitted simultaneously with the new Issue Fee Transmittal Form PTOL-85(b) and accompanying papers.

Respectfully submitted,



Edgar R. Cataxinos  
Registration No. 39,931  
Attorney for Applicant  
TRASKBRITT  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: April 20, 2006

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Attachment: Copy of Decision on Petition mailed December 23, 2005

Document in ProLaw



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov



EDGAR R. CATAXINOS  
TRASKBRITT, PC  
P.O. BOX 2550  
SALT LAKE CITY UT 84110

RECEIVED

DEC 27 2005

TRASKBRITT, P.C.

COPY MAILED

DEC 23 2005

OFFICE OF PETITIONS

In re Application of  
John R. Peery  
Application No. 09/296,582  
Filed: April 23, 1999  
Attorney Docket No. 000952066

ON PETITION

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid on April 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>**

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

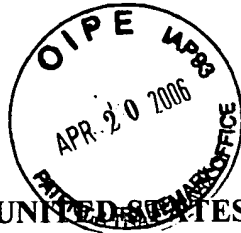
The examiner of Technology Center AU 3763 will consider the request for continued examination under 37 CFR 1.114.

*Karen Creasy*

Karen Creasy  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>1</sup> The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Examiner indicates:

The prior art of record fails to teach with respect to claims 3, 21 and it's dependent claims a trocar in combination with all the elements and it's structural and functional limitations and further comprising a cannula, an obturator and a spring element with a leaf spring with a T-shaped cut out portion which is entirely within the cannula.

The prior art of record fails to teach with respect to claim 4 and it's dependent claims a trocar in combination with all the elements and it's structural and functional limitations and further comprising a cannula, an obturator and a spring element with a leaf spring with a plurality of successive bends that arranged to alternatively contact an inside wall of the cannula for retaining the implant.

Applicant concurs with the reasons as stated by the Examiner insofar as they comprise a summary, and are exemplary and not limiting. However, the independent claims as allowed include other and different language than that specified by the Examiner, and the allowed dependent claims include other and further features and elements. Accordingly, the scope of the claims must be determined from the literal language of each as a whole, as well as equivalents thereof.

Respectfully submitted,



Edgar R. Cataxinos  
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